

# OFFICIAL GAZETTE

## GOVERNMENT OF GOA, DAMAN AND DIU

### EXTRAORDINARY

#### GOVERNMENT OF GOA, DAMAN AND DIU

Legislative Assembly of Goa, Daman and Diu

Legislature Department

LA/A/630/82

The following Report of the Select Committee on Bill No. 25 of 1980; The Goa, Daman and Diu Registration of Tourist Trade Bill, 1980 along with the Bill as amended by the Select Committee which was presented to the Legislative Assembly of Goa, Daman and Diu on 31st March, 1982 is hereby published for general information in pursuance of the provisions of Rule 229 of the Rules of Procedure and Conduct of Business of Legislative Assembly.

The Goa, Daman and Diu Registration of Tourist Trade Bill, 1982

(Bill No. 25 of 1980)

#### A BILL

*to provide for the registration of persons dealing with tourists and for matters connected therewith.*

#### COMPOSITION OF THE SELECT COMMITTEE

##### CHAIRMAN

1. Shri Harish N. P. Zantye,  
Minister for Tourism (upto 22nd June, 1981).
2. Dr. Wilfred D'Souza,  
Minister for Tourism (from 23rd June, 1981 onwards).

##### MEMBERS

1. Shri R. D. Khalap.
2. Shri Herculano Dourado.
3. Shri V. R. Naik.
4. Shri T. F. Pereira.
5. Shri V. P. Gaonkar.
6. Shri Shamsunder Z. Neogi.

#### LEGISLATIVE SECRETARIAT

1. Shri M. M. Naik, Secretary Legislature.
2. Shri R. K. Pillai, Superintendent.

#### GOVERNMENT REPRESENTATIVES (SECRETARIAT)

1. Shri U. D. Sharma, Law Secretary.
2. Smt. Kiran Dhingra, Secretary, Tourism Department.
3. Shri B. S. Subbanna, Under Secretary (Drafting).

#### DIRECTORATE OF TOURISM

1. Shri V. A. P. Mahajan, Director of Tourism.
2. Shri A. M. Viegas, Assistant Director of Tourism (Planning).

#### Report of the Select Committee

1. I, the Chairman of the Select Committee to which Bill No. 25 of 1980 (a Bill to provide for the registration of persons dealing with tourists and for matters connected therewith) was referred to, having been authorised by the Committee to submit the report on its behalf, present its report with the Bill as amended by the Committee, annexed hereto.

2. The Bill was introduced in the Legislative Assembly on 13th October, 1980. The motion for reference of the Bill to the Select Committee was passed by the House on 14th October, 1980.

3. The Committee held eleven sittings in all. In its preliminary meeting held on 5th November, 1980 the Committee decided to invite suggestions from Members of the Legislative Assembly and also from public. Accordingly Honourable Members of the Legislative Assembly were requested through Bulletin Part II and members of the public by a press note, to send their amendments and suggestions, if any, on or before 5th December, 1980. The Committee did not have the benefit of the suggestions or amendments from the Honourable Members of the Legislative Assembly. The suggestions received from M/s. Sona Hotels, Panaji; Hotel and Restaurant Association and Goa Chamber of Commerce

were examined by the Committee on 23rd October, 1980 and certain suggestions were accepted by the Committee and necessary amendments have been made in the Bill accordingly.

4. The Committee also visited Rajasthan, Delhi and Jammu and Kashmir and held discussion with Ministers and Government Officials regarding the provisions of the Bill and also the details regarding rules/regulations and control on tourist trade in these States. The Committee had also discussion with the President, Vice-President and Secretary of Travel Agents Society of Kashmir at Srinagar and National Forum on Tourism and Environment at New Delhi. Only in Jammu and Kashmir a similar Act is in force. Other States have, not so far, enacted any Legislation on the lines of Bill No. 25 of 1980.

5. The Committee also heard the representatives of Goa Tourism and Travel Club; Hotel and Restaurants Association and Goa Chamber of Commerce in its meeting held on 16th December, 1981.

6. The provisions of the Bill were examined clause-by-clause. Wherever found, necessary changes were made and incorporated in the Bill annexed to this report. The report was adopted by the Committee in its meeting held on 27th March, 1982.

The observations of the Committee with regard to the important changes proposed in the Bill are enumerated in the succeeding paragraphs.

**Preamble and title.**—The year of the Bill has been changed to bring it in conformity with the year of passing.

**Clause 1(2).** The Districts of Daman and Diu are also important from the point of view of tourism. The Committee is, therefore, of the opinion that the proposed Bill be extended to the Districts of Daman and Diu also. Sub-clause (2) of Clause 1 is amended accordingly. As a result of this amendment, the proviso to sub-clause (2) of clause 1 becomes redundant and hence the Committee recommends that the proviso may be deleted.

**Clause 2(a).**—It was considered that the expression 'boat' should be given an extended meaning by giving it an inclusive definition. Accordingly, the word 'means' is amended to read as 'includes'. The word 'boat' after the word 'house-boat' may be deleted.

**Clause 2(b).**—The words 'certificate of registration' have been used in clauses 4, 6, 8, 10, 15, 17, 24, 31, 32, 33, 34 and 42. Therefore, the Committee is of the opinion that the definition in clause 2(b) may be amended to read as under:

"(b) 'Certificate' means a certificate of registration issued under any of the provisions of this Act;"

**Clause 2(e).**—The expression 'hotel' should be given an extended meaning by giving it an inclusive definition. Accordingly the word 'means' is amended to read as 'includes'.

**Clause 2(f).**—The expression 'hotel keeper' should be given an extended meaning by giving it an in-

clusive definition. Accordingly the word 'means' is amended to read as 'includes'.

**Clause 2(g).**—The word 'dishonesty' is proposed to be deleted as the other words appearing in this sub-clause are quite comprehensive and make the definition of "malpractice" clear and self explanatory.

**Explanation 1 under clause 2(g).**—The intention of making available the articles at a reasonable price can be better achieved if the price is fixed by an authority decided by the Government. The authority may be prescribed or constituted by rules made under the Act. The Committee is, therefore, of the opinion that Explanation 1 is to be amended as under:—

"**Explanation 1.**—For the purpose of this clause, labelled price (the price displayed on the label on the article) shall be the reasonable price as may be fixed by the prescribed authority".

**Explanation 2.**—To enlarge the scope of the expression 'touting' the words 'or any other service connected with tourism' may be added and the word 'or' appearing before the word 'manufacturer' may be deleted.

**Clause 3(1).**—The Committee is of the opinion that the provision of clause 3(1) should not be applied to the sale of notified articles in fairs etc. Therefore the Committee decided to insert a proviso to clause 3(1) as under:—

"Provided that nothing in this sub-section shall apply to the sale of notified articles in fairs and temporary markets organised during festivals".

**Clause 3(2).**—The sub-clause (2) refers to the person already carrying on the business. Hence the word 'already' is to be added in between the words 'person' and 'carrying'.

**Clause 5(1)(c).**—The Committee is of the opinion that six months period is too harsh and it should be reduced to three months. Accordingly 'six months' in clause (c) has been amended to 'three months'.

The provision of clause 6(1) (b) comes in conflict with clause 5(1) (a) and as such the Committee decided to delete reference to clause (b) of clause 6 from clause 5(1) (c). The Committee considers that clause 6(1) (d) should also be a ground for refusal to register under clause 5(1) (c). Accordingly clause (d) has been inserted after 'clause (c)' in clause 5(1) (c).

**Insertion of new clause 5(1)(d).**—The Committee is of the opinion that a new clause (d) may be added after clause (c) on the lines of clause 9(1) (e). Accordingly the following clause (d) may be added after clause (c):—

"(d) if in the opinion of the prescribed authority there is sufficient ground, to be recorded in writing, for refusing registration".

**Clause 7(2).**—The words 'is used' in the fourth line of clause (2) is superfluous and hence the Committee proposes to delete the same.

*Clause 9(1)(c).*—The Committee is of the opinion that clause (c) be revised on the lines of clause 5(1)(c). Therefore the words 'six months' is amended to read as 'three months'. For the reasons mentioned in 5(1)(c) above, 'clause (b)' is deleted and 'clause (d)' is inserted.

*Clause 11.*—Clause 11 is regarding classification of hotels and fixation of rates. It is, therefore, suggested that the existing marginal heading be amended to read as "Classification of hotels and fixation of rates."

The Committee is of the opinion that the hotels which are classified by Government of India or any board or authority should be exempted from the provisions of clause 11. Therefore the Committee recommends that a proviso, as under, may be added to clause 11:—

"Provided that nothing in this section shall apply to the hotels which are classified or graded by Government of India or any board or authority under the Central Government or under an act of Parliament."

*Clauses 14 to 19.*—The Committee is of the opinion that the field of business of a travel agent may be extended to areas declared as tourist areas though his office may be in a non-tourist area. In view of this it was decided that compulsory registration of travel agents throughout the territory may be made. Accordingly the expression 'in a tourist area' wherever it occurs in Chapter IV may be deleted.

*Clause 14(3).*—The Committee has decided that clause 14(3) may be re-drafted on the lines of clause 7(2) after taking into consideration of the above facts. Accordingly the Committee recommends that clause 14(3) shall be substituted as under:—

(3) Notwithstanding anything contained in sub-section (2), any person already engaged in the business as travel agent shall apply for registration within three months from the date of commencement of this Act.

*Clause 16.*—The Committee recommends that clause (d) may be re-cast on the lines of clause 9(1)(c). The Committee further recommends that after sub-clause (d) of clause 16 a new sub-clause (e) may be added on the lines of clause 9(1)(e). Accordingly a new sub-clause (e) is inserted as under:—

(e) if in the opinion of the prescribed authority, there is sufficient ground, to be recorded in writing, for refusing registration.

*Clause 20.*—The Committee is of the opinion that the words 'filing it' appearing in proviso to sub-clause (2) may be substituted by the words 'preferring the appeal' to correct a drafting mistake.

In sub-clause (3) the word 'appear' may be substituted by the words 'be presented'. The appellant may be also permitted to be represented by an authorised agent. Therefore, the words 'or by a duly authorised agent' may be added after the words 'by a counsel'. The Committee is also of the opinion that the prescribed authority may decide as to who should

represent him. Therefore, the expression 'Government' is amended to read as 'prescribed authority'.

*Clause 21.*—The Committee has decided that clause 21 relating to "revision" should be drafted in such a manner that the revisional power may be conferred on some independent authority. The Committee is of the opinion that the appellate order is not in the nature of judicial order and, therefore, it will be appropriate to confer this revisional power on an officer of this Government as revisional Authority so that the disposal of revision petitions may be expeditious. Accordingly clause 21 has been redrafted to substitute the existing clause 21.

*Clause 22 to 28.*—*General:* The Committee has decided that in respect of offences and penalties in Chapter VI, the first violation of the provisions of the Act or the rules should be punishable by the prescribed authority with fine and subsequent violations by the Judicial Magistrate with punishment or with fine or with both. Accordingly Clauses 22 to 28 have been amended/re-drafted.

*Clause 22.*—After the words "any of the provisions of this Act", the words, "or the Rules made thereunder" may be added. The words "and if the breach is continuing one with a fine of Rs. 100/- for each day" may be deleted. Consequent to these changes, sub-clause (2) becomes redundant and may be deleted. In the explanation after the words "prescribed period and" the word "which" may be added.

*Clause 23.*—The words "or the Rules made thereunder" may be added after the words "under this Act". The words "liable to punishment with imprisonment for a term which may extend to 3 months or with fine not exceeding Rs. 500/- or with both", may be deleted and the words "punishable by the prescribed authority with fine which may extend to Rs. 2000/-" may be substituted.

*Clause 24.*—The words "liable to punishment with imprisonment which may extend to six months or with fine not exceeding Rs. 2000 or with both" may be deleted and the words "punishable by the prescribed authority with fine which may extend to Rs. 2000/-" may be substituted.

*Clause 25.*—The Committee is of the opinion that since a certificate is displayed it is not necessary to show the certificate or any other document to any bonafide customer. As such the Committee recommends that item (b) of sub-clause (1) may be deleted. Consequent to this change item (a) shall be added in sub-clause (1) after the words "under this Act" and the words "to" may be deleted.

In sub-clause (a), the words "liable to punishment" may be deleted and the words, "punishable by the prescribed authority" may be substituted.

*Clause 26.*—In view of the reasons given above (clauses 22 to 28) (General) clause 26 is amended.

*Clause 28.*—As stated above, the Committee had decided that the second or the subsequent violation of the provisions of the Act or the Rules should be with punishment or with fine or with both by Judicial Magistrate. Accordingly a new clause as shown in the bill has been recommended by the

Committee. The provisions of existing clause 28 are now incorporated in sub-clause (2) of the new clause 28.

*Clause 30.* — Clause 30 relating to the composition of offences does not give any guideline to the prescribed authority for the composition of offences and as such, it may be struck down by a court of law. Therefore, the Committee recommends that existing clause 30 may be replaced by a new clause as shown in the Bill appended to this report.

*Clause 31.* — The Committee is of the opinion that a time limit be prescribed for notifying the change in the certificate of registration by the person who inherits the business and the Committee recommends a period of sixty days for this purpose. Accordingly the words "sixty days of the date of such" be added in sub-clause (1) after the words "such person shall within". The words after giving an opportunity is added in sub-clause (3) as the Committee is of the opinion that an opportunity is to be afforded before removing the name.

*Clauses 32 and 35.* — The Committee is of the opinion that the order of cancellation mentioned in clause 32 should be communicated to the person concerned. Accordingly clause 32 is amended. The order of cancellation may also be published in Official Gazette. Clause 35 is also amended accordingly.

*Clause 37.* — In clause 37 only the hiring of boat in tourist area is mentioned in the category of other services. Since all out efforts are being made to develop tourism in this territory, many other services to tourists may come up in future. However, what are these "other services" cannot be enumerated in detail at this stage. Therefore the Committee is of the opinion that the "other services" may be prescribed by rules and the expression "hiring of boats" be substituted by the expression "such other tourist service".

*Clause 38.* — This clause also mentions of only letting or plying for hire the boats. The Committee is of the opinion that this clause be applied for all other tourist services. Therefore the Committee recommends that the words "in a tourist area of letting or plying for hire boats or to such other persons as may be specified in the notification" appearing at the end of the clause be deleted and the words "of providing such tourist service in a tourist area" be substituted.

*Clause 42.* — Sub-clause 2(i) and sub-clause (3) have been amended from the angle of drafting.

Minor verbal corrections have also been made in the Bill from the drafting angle.

The Committee would like to place on record its appreciation for the valuable guidance given by Shri U. D. Sharma, Secretary (Law), Shri M. M. Naik, Secretary (Legislature), Smt. Kiran Dhingra, Secretary, Tourism Department, Shri V. A. P. Mahajan, Director of Tourism, Shri B. S. Subbanna, Under Secretary (Drafting), Shri A. M. Viegas, Assistant Director of Tourism and Shri R. K. Pillai, Superintendent and other staff of Legislature Department.

DR. WILFRED D'SOUZA

Assembly Hall,

Chairman

Panaji, dated 27th March, 1982.

(Note: Deletions made by the Select Committee are shown in square brackets and additions and substitutions made are underlined).

## The Goa, Daman and Diu Registration of Tourist

Trade Bill, [1980] 1982

(Bill No. 25 of 1980)

A

BILL

*to provide for the registration of persons dealing with tourists and for matters connected therewith.*

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the [Thirty-first] Thirty-third Year of the Republic of India as follows:

### CHAPTER I

#### Preliminary

1. Short title, extent and commencement. — (1) This Act may be called the Goa, Daman and Diu Registration of Tourist Trade Act, [1980.] 1982.

(2) It shall extend to the [District of Goa] whole of the Union territory of Goa, Daman and Diu.

[Provided that the Government may by notification in the Official Gazette, extend the Act to the other Districts in the Union territory.]

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Definitions. — In this Act, unless the context otherwise requires, —

(a) 'boat' [means] includes a house-boat, [boat,] motor-boat, motor launch, pedal boat, sailing boat and canoe;

(b) 'certificate' [of registration] means a certificate of registration issued under any of the provisions of this Act;

(c) 'dealer' means a person carrying on in a tourist area the business of selling any notified article, whether wholesale or retail, and includes his agent or employee transacting business on his behalf;

(d) 'Government' means the Government of Goa, Daman and Diu;

(e) 'hotel' [means] includes any premises or part of premises including a house-boat, restaurant, bar or a tent where lodging with or without board or any kind of eatables or beverages is provided for a monetary consideration;

(f) 'hotel keeper' [means] includes any person who owns or operates a hotel as proprietor and includes a person managing or operating the affairs of a hotel for and on behalf of the proprietor;

(g) 'malpractice' includes [dishonesty] cheating, touting, impersonation, obstruction in allowing free choice for shopping or stay or travel management, charging a price higher than that displayed on the label or remuneration higher than that fixed under this Act, failure to display price label on the articles, failure to give cash memos and wilful failure to execute an order within the stipulated time and according to the terms agreed.

*Explanation 1.* — For the purposes of this clause, labelled price (the price displayed on the label on the article) shall be the reasonable price [with stock number recorded on each label of each item as reflected in the stock books of dealer/manufacturer maintained at their places of business which shall be open for inspection by the buyer of the item or by the prescribed authority] as may be fixed by the prescribed authority.

*Explanation 2.* — The expression 'touting' means coercing for shopping, accommodation transportation, sight seeing or pestering for any particular premises, person, establishment, [or] manufacturer or any other service connected with tourism with consideration of personal benefit;

(h) 'notified article' means any article notified by the Government in the Official Gazette for the purposes of this Act;

(i) 'prescribed' means prescribed by rules made under this Act;

(j) 'prescribed authority' means the authority notified as such by the Government, provided that different authorities may be notified for different provisions of this Act;

(k) 'tourist area' means any area notified by the Government in the Official Gazette to be a tourist area for the purposes of this Act;

(l) 'tourist' means a person or group of persons, including pilgrims, visiting the Union territory of Goa, Daman and Diu from any part of India or outside India;

(m) 'travel agent' means a person engaged in the business of making travel, camping, tour operating or other travel arrangements for tourists for a monetary consideration and includes a tourist guide, excursion agent, tent and camping agent or tour operator;

(n) 'travel arrangements' include —

(a) arrangements for transportation, sight seeing;

(b) arrangements for lodging with or without food; and

(c) rendering other services, such as, assistance for game, sports or receipt or despatch of personal belongings of a tourist.

## CHAPTER II

### Registration of Dealers

3. Registration. — (1) Every person intending to carry on business of a dealer under this Act shall, before he commences such business, apply for registration to the prescribed authority in the prescribed manner.

Provided that nothing in this sub-section shall apply to the sale of notified articles in fairs and temporary markets organised during festivals.

(2) Notwithstanding anything contained in sub-section (1), any person already carrying on business of selling any notified article in a tourist area on the date such article is notified under clause (h) of section 2 shall apply for registration under this Act within three months from the aforesaid date.

(3) Every application made under sub-section (1) shall be disposed of within a period of three months from the date of receipt of the application failing which the application shall be deemed to have been accepted for registration.

4. Certificate of Registration. — The prescribed authority shall, unless registration is refused under section 5, direct that the name and the particulars of the dealer be entered in the register maintained for the purpose and shall issue a certificate [of registration] to the dealer in the prescribed form within a period of three months from the date of the receipt of the application.

5. Refusal to register. — (1) The prescribed authority may refuse [registration of] to register a dealer under this Act on any of the following grounds, namely: —

(a) if he is convicted of any offence under Chapters XIV and XVI of the Indian Penal Code, 1860 or under any of the provisions of this Act or of any offence punishable under any law providing for the prevention of hoarding, smuggling or profiteering or adulteration of food and drugs or corruption and two years have not elapsed since the termination of the sentence imposed upon him; Central Act 45 of 1860

(b) if he has been declared an insolvent by a Court of competent jurisdiction and has not been discharged;

(c) if his name has been removed from the register under [clause (b) or] clause (c) or clause (d) of section 6 and [six] three months have not elapsed since the date of removal.

(d) if in the opinion of the prescribed authority there is sufficient ground, to be recorded in writing, for refusing registration.

(2) No application for registration shall be refused unless the person applying for registration has been afforded a reasonable opportunity of being heard.

6. Removal of the name from the Register. — (1) The prescribed authority may, after affording a reasonable opportunity of being heard, by an order in writing, remove the name of a dealer from the register and cancel his certificate [of registration] on any of the following grounds, namely: —

(a) if he ceases to be a dealer;

(b) if he is convicted of any offence under Chapters XIV and XVI of the

Indian Penal Code, 1860 or under any of the provisions of this Act or of any offence punishable under any law providing for the prevention of hoarding, smuggling or profiteering or adulteration of food or drugs or corruption;

Central  
Act  
45 of 1860

(c) if he is declared an insolvent by a Court of competent jurisdiction and has not been discharged;

(d) if any complaint of malpractice is received and proved against him.

(2) Any dealer whose name is removed from the register under sub-section (1) shall forthwith cease to be a dealer.

### CHAPTER III

#### Registration of Hotels

7. **Registration.**— (1) Every person intending to operate a hotel in a tourist area shall, before operating it, apply for registration to the prescribed authority in the prescribed manner.

(2) Notwithstanding anything contained in sub-section (1), any person already operating a hotel in a tourist area on the date of notification under clause (k) of section 2, [is used,] shall apply for registration within three months from the aforesaid date.

(3) Every application made under sub-section (1) shall be disposed of within a period of three months from the date of receipt of the application failing which the application shall be deemed to have been accepted for registration.

8. **Certificate of registration.**— The prescribed authority shall, unless registration is refused under section 9, direct that the name and the particulars of the hotel and the hotel keeper be entered in the register maintained for the purpose and shall issue a certificate [of registration] to the hotel keeper in the prescribed form.

9. **Refusal to register a hotel.**— (1) The prescribed authority may refuse to register [ing] [of] a hotel under this Act on any of the following grounds, namely:—

(a) if the hotel-keeper is convicted of any offence under Chapters XIV and XVI of the Indian Penal Code, 1860 or under any of the provisions of this Act or of any offence punishable under any law providing for the prevention of hoarding, smuggling or profiteering or adulteration of food or drugs or corruption and two years have not elapsed since the termination of the sentence imposed upon him;

Central  
Act  
45 of 1860

(b) if the hotel-keeper has been declared an insolvent by a Court of competent jurisdiction and has not been discharged;

(c) if the name of the hotel-keeper has been removed from the register under [clause (b) or] clause (c) or clause (d) of section 10 and [six] three months have not elapsed since the date of removal;

(d) if the hotel keeper does not hold a licence or certificate required to be held by him under any law for the time being in force;

(e) if in the opinion of the prescribed authority there is [any] sufficient ground, to be recorded in writing, for refusing registration.

(2) No application for registration shall be refused unless the person applying for registration has been afforded a reasonable opportunity of being heard.

10. **Removal of the name from the Register.**— (1) The prescribed authority may, after giving an opportunity of being heard, by an order in writing, remove the name of a hotel from the register and cancel its certificate [of registration] on any of the following grounds, namely:—

(a) if the hotel-keeper ceases to operate the hotel in the tourist area for which it is registered;

(b) if the hotel-keeper is convicted of any offence under Chapters XIV and XVI of the Indian Penal Code, 1860 or under any of the provisions of this Act or of any offence punishable under any law providing for the prevention of hoarding, smuggling or profiteering or adulteration of food or drugs or corruption;

Central  
Act  
45 of 1860

(c) if the hotel-keeper is declared an insolvent by a Court of competent jurisdiction and has not been discharged;

(d) if any complaint of malpractice is received and proved against a hotel-keeper;

(2) Any hotel the name of which is removed from the register under sub-section (1) shall forthwith cease to operate.

11. **[Fixation of rates] Classification of hotels and fixation of rates.**— The prescribed authority may after following the procedure as may be prescribed and after giving an opportunity of being heard to the hotel-keeper, by notification in the Official Gazette, classify the hotels and award a grade to each hotel and also fix the reasonable maximum rate and the service charges, if any, commensurate with the standard of the hotel and the quality of food, accommodation and service, which may be charged by the hotel-keeper for board or lodge or for both from the person staying therein or from other customers:

Provided that nothing in this section shall apply to the hotels which are classified or graded by the Government of India or any board or authority under the Government of India or by or under an Act of Parliament.

12. **Hotel-keeper to display information.**— Every hotel-keeper shall cause to be displayed at some conspicuous place of the hotel, such information as may be prescribed.

13. **Hotel-keeper to present detailed bill.**— Every hotel-keeper shall render detailed bills to the persons residing in the hotel and other customers and shall give receipts in acknowledgement of all payments.



## CHAPTER IV

## Travel Agents

14. **Registration.** — (1) No person shall carry on the business of a travel agent [in a tourist area] unless he is registered in accordance with the provisions of this Act.

(2) Every person intending to act as a travel agent [in a tourist area] shall, before he commences to act as such, apply for registration to the prescribed authority in the prescribed manner.

(3) Notwithstanding anything contained in sub-section (2), any person [acting] already engaged in the business as a travel agent, [in a tourist area on the date a notification under clause (k) of section 2 is issued] shall apply for registration within three months from the [aforesaid date] date of commencement of this Act.

(4) Every application made under sub-section (2) shall be disposed of within a period of three months from the date of receipt of the application failing which the application shall be deemed to have been accepted for registration.

15. **Certificate [of registration].** — The prescribed authority shall, unless registration is refused under section 16, direct that the name and particulars of the travel agent be entered in the register maintained for the purpose and issue a certificate [of registration] to the travel agent in the prescribed form.

16. **Refusal to register.** — (1) The prescribed authority may refuse to register [the registration of] a travel agent under this Act on any of the following grounds, namely: —

(a) if he does not possess any of the prescribed qualifications;

(b) if he has been convicted of any offence under Chapters XIV and XVI of the Indian Penal Code, 1860 or under any of the provisions of this Act or of any offence punishable under any law providing for the prevention of hoarding, smuggling or profiteering or adulteration of food or drugs or corruption and two years have not elapsed since the termination of the sentence imposed upon him;

Central  
Act  
45 of 1860

(c) if he has been declared an insolvent by a Court of competent jurisdiction and has not been discharged;

(d) if his name has been removed from the register under [this] clause (c) or clause (d) of section 17 and three months have not elapsed from the date of removal. [Act and one year has not elapsed since the date of removal.]

(e) if in the opinion of the prescribed authority there is sufficient ground, to be recorded in writing, for refusing registration.

(2) No application for registration shall be refused unless the person applying for registration has been [allowed an] afforded a reasonable opportunity of being heard.

17. **Removal of the name from the register.** — (1) The prescribed authority may, after giving an opportunity of being heard, by an order in writing, remove the name of a travel agent, from the register and cancel his certificate [of registration] on any of the following grounds, namely: —

(a) if he ceases to act as a travel agent; [in a tourist area;]

(b) if he is convicted of any offence under Chapters XIV and XVI of the Indian Penal Code, 1860 or under any of the provisions of this Act or of any offence punishable under any law providing for the prevention of hoarding, smuggling or profiteering or adulteration of food or drugs or corruption:

Central  
Act  
45 of 1860

(c) if he is declared an insolvent by a Court of competent jurisdiction and has not been discharged;

(d) if any complaint of malpractice is received and proved against him.

(2) Any travel agent whose name is removed from the register under sub-section (1) shall forthwith cease to be a travel agent.

18. **Fixation of rates.** — The prescribed authority may, by a notification in the Official Gazette, fix the reasonable maximum rates which may be charged by a travel agent for the services rendered by him to a person engaging him as such.

19. **Travel agent not to demand tip, etc.** — No travel agent shall demand any tip, gratuity, presents or commission other than that permissible under this Act from any persons engaging him or from any dealer selling notified article to any person or from any hotel-keeper in whose hotel such person resides or intends to reside.

## CHAPTER V

## Appeal and Revision

20. **Appeal.** — (1) Subject to the provisions of sub-section (2), an appeal shall lie from every order of the prescribed authority under this Act to the appellate authority to be appointed by the Government.

(2) Every such appeal shall be preferred within ninety days from the date of communication of the order:

Provided that the appellate authority may entertain [an] the appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from [filling it] preferring the appeal in time.

(3) The appellant shall have a right to [appear] be represented by a counsel or by a duly authorised agent and prescribed authority may be represented by such officer or person as the [Government] prescribed authority may appoint.

(4) On receipt of any such appeal, the appellate authority shall, after giving the appellant a reasonable opportunity of being heard and after making such enquiry as it deems proper, pass such order as it may deem fit, after recording the reasons therefor.

[21. Revision. — The Minister-in-charge, Tourism Department may at any time call for the record of any case disposed of by any authority under this Act and if in any such case it shall appear to the Minister-in-charge that any order passed or proceedings taken should be modified, annulled or revised, he may pass such order as he may deem fit for reasons to be recorded and such order shall be final:

Provided that no order under this section shall be made to the prejudice of the person unless he has had a reasonable opportunity of being heard either personally or through counsel or by a duly authorised agent.]

**21. Revision.** — The Revisional authority to be appointed by the Government may, either on his own motion or on an application made by an aggrieved party, call for the record of any case disposed of by the appellate authority, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed by the appellate authority and pass such order thereon as it may deem fit and such order shall be final;

Provided that no such record shall be called for after the expiry of three months from the date of communication of the order.

Provided further that no order under this section shall be made to the prejudice of a person unless he has had a reasonable opportunity of being heard either personally or through a counsel or by a duly authorised agent.

#### CHAPTER VI

##### Offences and Penalties

**22. Penalty for default in registration.** — (1) Any person carrying on the business of a dealer, hotel-keeper or travel agent without [a] proper registration under this Act or in violation of any of the provisions of this Act or the Rules made thereunder shall be punishable by the prescribed authority with [a] fine which may extend to Rs. 2,000/- [and if the breach is continuing one with a fine of Rs. 100/- for each day].

[(2) The fine imposed under sub-section (1) shall be recovered as if it is a fine recoverable under the provisions of the Code of Criminal Procedure, 1973.]

Central  
Act  
2 of 1974

*Explanation.* — A person who has made an application within the prescribed period and which is pending disposal shall not be a defaulter for the purposes of this section.

**23. Penalty for false statement.** — If any person required to make a statement under this Act or the Rules made thereunder wilfully makes a false statement or suppresses a material fact with an intention to mislead the prescribed authority, he shall be [liable to punishment with imprisonment for a term which may extend to three months or with fine not exceeding Rs. 500 or with both]

punishable by the prescribed authority with fine which may extend to Rs. 2,000/-.

**24. Certificate not to be assigned.** — Any person who lends, transfers or assigns the certificate [of registration] issued under this Act, shall be [liable to punishment with imprisonment which may extend to six months or with fine not exceeding Rs. 2,000 or with both.] punishable by the prescribed authority with fine which may extend to Rs. 2,000/-.

**25. Certificate and documents to be shown to persons on demand.** — (1) Any person registered under this Act, shall, at all times on demand, produce and show his certificate or any other document required under this Act [to] or the Rules made thereunder to [a] the prescribed authority or any officer authorised by him in this behalf. [and]

[(b) any bonafide customer.]

(2) Any person who refuses on demand to show his certificate or document, or allow it to be read by any of the persons authorised to demand it, shall be [liable to punishment] punishable by the prescribed authority with fine not exceeding Rs. 500.

**26. Penalty for malpractice.** — If any dealer, hotel-keeper, travel agent or any other person to whom this Act may be made applicable, [who] commits a malpractice or contravenes any other provision of this Act or the Rules made thereunder in [the] a tourist area for which no specific penalty has been provided, he shall be [liable to punishment with imprisonment for a term which may extend to three months or with fine not exceeding Rs. 1,000 or with both] punishable by the prescribed authority with fine which may extend to Rs. 1,000/-.

**27. Obstructing lawful authorities.** — If any person wilfully obstructs or offers any resistance to, or otherwise interferes in the discharge of the functions of the prescribed authority or any officer authorised by him exercising any power, or performing any duties conferred or imposed upon it or him by or in pursuance of this Act or the Rules made thereunder, he shall be liable to punishment with imprisonment which may extend to three months or with fine not exceeding Rs. 100 or with both.

**28. Institution of proceedings.** — No prosecution shall be instituted against any person for any offence under this Act except on a complaint made by the prescribed authority.]

**28. Penalty for subsequent breaches.** — (1) Any person committing a breach of any of the provisions of the Act or the Rules made thereunder for which he has been once punished with fine by the prescribed authority under any of the provisions of this Chapter, shall be punishable with imprisonment which may extend to six months or with fine which may extend to Rs. 5000/- or with both.

(2) No prosecution shall be instituted against any person for any offence under this Act except on a complaint made by the prescribed authority.



(3) Any fine imposed under this Chapter shall be recovered as if it were a fine recoverable under the provisions of the Code of Criminal Procedure, 1973. (Central Act 2 of 1974).

**29. Power of the prescribed authority to summon and enforce attendance of witnesses and other persons.** — The prescribed authority shall have all the powers of a civil Court, under the Civil Procedure Code, 1908 while hearing any application under this Act in respect of the following matters, namely: —

Central  
Act  
5 of 1908

(a) summoning and enforcing attendance of the complainant or the person against whom complaint is made under this Act and witnesses required in connection therewith;

(b) compelling the production of any document, and

(c) examining witnesses on oath —

and may summon and examine suo moto any person whose evidence appears to be material.

**[30. Composition of offences.** — (1) The prescribed authority may accept from any person accused of an offence under this Act a sum of money by way of composition for such offence and may out of money so received compensate the person against whom the offence has been committed to the extent the prescribed authority deems reasonable.

(2) On the composition of offence no further proceeding in respect thereof shall lie.]

**30. Composition of offences.** — (1) Subject to such conditions as may be prescribed, the prescribed authority may accept from any person accused of an offence under this Act or the Rules made thereunder, other than an offence under section 27 of the Act, such sum of money, as may be prescribed, by way of composition for such offence and may, out of the money so received, compensate the person against whom the offence has been committed to the extent the prescribed authority deems reasonable.

(2) On the composition of the offence, no further proceeding in respect thereof shall lie.

#### CHAPTER VII

##### Miscellaneous

**31. Notification of changes.** — (1) Whenever a business, for which a certificate [of registration] is held by a person, devolves, by inheritance or otherwise, upon any other person or undergoes a change in respect of any particulars entered in the register under this Act, such person shall, within sixty days of the date of such devolution or change, notify in writing, the fact to the prescribed authority.

(2) The prescribed authority shall make necessary changes in the register maintained for the purpose[s] and in the certificate. [of registration.]

(3) Notwithstanding anything contained in sub-section (2), the prescribed authority may, after giving an opportunity of being heard, remove from the register, the name of the person in whose favour the certificate was issued and cancel the certificate [of registration] if the successor is not qualified to be registered under this Act.

**32. Return of certificate [of Registration].** — When a certificate [of registration] is cancelled under this Act, the person holding such certificate shall, within seven days from the date of [publication] communication of the order of cancellation [in the Official Gazette] return it to the prescribed authority.

**33. Duplicate certificate.** — If a certificate [of registration] issued under this Act is lost, damaged or destroyed, the prescribed authority shall, on an application made in that behalf by the person holding such certificate and on payment of the prescribed fee, issue a duplicate certificate.

**34. Certificate [of Registration] to be kept exhibited.** — The Certificate [of registration] shall be exhibited by the person holding it in a conspicuous place at the principal place of his business and if he has no place of business, he shall keep it on his person.

**35. Publication of name of person removed from the register.** — The prescribed authority shall [from time to time] publish in the Official Gazette and in such other manner it deems fit, the names and addresses of the persons and of the hotels whose names have been removed from the register [and] or whose certificates have been cancelled or who have been refused registration under this Act.

**36. Power to inspect.** — The prescribed authority or any person authorised by him in this behalf may, within the tourist area, inspect at all reasonable times, the premises in which a dealer or a travel agent carries on his business or any premises where a hotel is operated and require such dealer, travel agent or a hotel-keeper to produce any document kept in pursuance of this Act or the rules made thereunder for inspection.

**37. Fixation of rates for other services.** — The prescribed authority may, by a notification in the Official Gazette, fix the reasonable maximum rates which may be charged in a tourist area, for [hiring of boat] such other tourist service, [in a tourist area,] as may be prescribed.

**38. Powers of [the] Government to apply [the] Act to other persons.** — The Government may, by notification in the Official Gazette, direct that all or any of the provisions of this Act or the rules made thereunder shall, with such exceptions, adaptations or modifications as may be considered necessary, apply to persons doing the business [in a tourist area of letting or plying for hire boats or to such other persons as may be specified in the notification] of providing such tourist service in a tourist area as may be prescribed.

**39. Powers and duties of police in respect of offences and assistance to [the] prescribed authority.**— Every police officer shall give immediate information to the prescribed authority of an offence coming to his knowledge which has been committed against this Act or any rule made thereunder and shall assist the prescribed authority in the exercise of his lawful authority.

**40. Indemnity.**— No suit, prosecution or other legal proceedings whatsoever shall lie against the Government or any [person] officer or employee of the Government in respect of anything which is in good faith done or intended to be done under this Act.

**41. Reservation of powers of local authority.**— Nothing in this Act shall take away or diminish any of the powers vested in any local authority by or under any law for the time being in force.

**42. Power to make rules.**— (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for —

(a) the maintenance of registers, books and forms by a hotel-keeper, dealer or travel agent for conduct of business;

(b) the form of application for registration and for certificate; [of registration.]

(c) the fee for registration;

(d) the manner for giving notices under this Act;

(e) classification of hotels and travel agents.

(f) qualification for registration as travel agents;

(g) manner of publication of the names and address of the persons and of the hotels removed from the register or to whom registration has been refused;

(h) the place where the prescribed authority shall hold enquiry under this Act; and

(i) [all] any other matter [expressly required to be] which is to be or may be prescribed; [under this Act]

(3) [The] Every rule [s] made under this Act shall be subject to the conditions of previous publication.